

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

DEMCO DEVELOPMENT CO. ,
a corporation,

An Alleged Bankrupt,

Appellant,

vs.

COMMUNITY SAVINGS & LOAN ASSN. ,

Appellee.

PETITION FOR REHEARING

APPEAL FROM
THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

FILED

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WM. B. LUCK, CLERK

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Appellant pleads for REHEARING herein:

The Decision rests upon incompetent evidence, which the Reviewing Court erroneously accepted as sufficient, inasmuch as the District Court had predicated its findings thereon.

The Bankruptcy Court and the District Court was without Jurisdiction of the property subject matter herein; that is, without Jurisdiction to adjudicate the title thereto.

The right to the possession of the said subject property was, at the time of the Referee's Memorandum Decision, and at all times subsequently, not a controversy within the then

jurisdiction of the said Referee nor the District Court, as the alleged Bankrupt was theretofore Discharged out from said Bankruptcy Court without having been adjudicated a Bankrupt; and, the prior Order in said District Court rendered the issue res judicata, and not subject to re-determination.

Erroneous conclusions of law, by the District Court, and confirmed by the Decision, that, 1) The rents were the property of Appellee at all times during the course of these proceedings; 2) The funds were not a part of the alleged Bankrupt estate; 3) There was in fact, no deficiency, as we understand that term to have been used in the stipulation; 4) The Order pursuant to stipulation and the stipulation for the Order are insufficient to estop Appellee to claim the rents; 5) Relying upon the Mortgage Loan case, wherein there was an adjudication of Bankruptcy, and also recovery allowed pursuant to a deficiency, as authority for the within Decision; 6) That an Order for sequestration would have given to the Appellee greater rights than he had without such Order.

Said Decision, as to each point hereinbefore set out, is not in accord with the law as decreed by the State of California, nor by those cases in point by the United States Courts. Property rights are generally recognized in accordance with those laws applicable to the subject property where the same be situate; this precept is particularly appropos when the said property be a landed estate. To adjudicate contrawise would result in a deprivation of a persons property without due process of law, as secured

to all citizens by our State and also our Federal Constitutions.

The Record herein fails to support the Decision, either of the facts concluded, or as to the laws to be applied, as the same are now concluded and applied, by this Decision.

WHEREFORE, Appellant prays for Rehearing to permit further demonstration of the errors as alleged hereinbefore.

Respectfully submitted,

WEBB & WEBB

By: JAMES C. WEBB

Attorneys for Appellant.

CERTIFICATE

I hereby certify, as an officer of the above Court, that the within Petition is filed in good faith, that the same is well taken, and is not done for the purpose of delay.

/s/ James C. Webb

JAMES C. WEBB

